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Current Topics.

Quaint Survivals.

WHILE it is true that modern legislation has shorn our real property law of much of its ancient picturesqueness, we are reminded by the recurrence this week of the quaint ceremony in the Law Courts of the payment on behalf of the City of London of a certain number of horseshoes and nails to the Exchequer in respect of a piece of land, called the "Forge," in the Parish of St. Clement Danes, that old customs have not altogether passed away. According to HAZLITT'S "Tenures of Land and Customs of Manors," WALTER LE BRUN was granted this land whereon to erect a forge, he rendering therefor a certain number of horseshoes annually—a service still rendered with becoming gravity on behalf of the citizens of London in whom in process of time the land in question became vested. Our ancestors took such incidents of tenure with all seriousness, and, indeed, in many cases these in their origin possessed a real significance, as for instance, certain land in Cumberland which was held by the service of cornage, that is, according to BLOUNT, the blowing of a horn to give warning of the approach of the Scots. In Scotland the practice prevailed of granting land to be held on similar tenures. Professor COSMO INNES in his interesting work "Scotch Legal Antiquities," mentions that the lands of Lochaw were granted by BRUCE to COLIN CAMPBELL, the ancestor of the Argyll family, under the obligation of finding a ship of forty oars for the King's service with sufficient tackle and men for forty days, besides giving foreign service like the other Barons of Argyll. Somewhat quainter was the service required of Sir ANDREW WOOD of Largo, who had to accompany once a year KING JAMES IV and his consort on pilgrimage to the Isle of May, if required.

Town and Country Planning: Central Control.

REFERENCE was made in our last issue to the fact that SCOTT, L.J., was to speak at the conference of the Council for the Preservation of Rural England, at Chester. His lordship recalled that the urgency of the problems created by post-war developments caused the Town Planning Institute, with the concurrence of the Council for the Preservation of Rural England, to initiate an inquiry, the outcome of which was a report, published last May, advocating the setting up of a commission to advise on planning from a national point of view. Attention was drawn to deficiencies in the present system occasioned by the failure to view the problem from this standpoint. Preservation of the land for agriculture and as a source of food supply was a major consideration, yet the whole basis of the existing planning system had been towards urban and suburban development without thought for agriculture, which, in the last ten years, had lost 400,000 acres to building uses directly and a much larger acreage indirectly because of the impairment caused by the sporadic nature of that building activity. Major problems not provided for in existing planning legislation included the question of national parks, transport developments, the effect of statutory undertakings such as those concerned with water and electricity supply, the location of industry and population, and the correction of defects already apparent in local and regional planning schemes. The learned lord justice concluded by urging the need for national planning and for a national commission to study it. The Minister of Health was not, it was intimated, in a position to shoulder the task because, under existing legislation, he was given a large number of quasi-judicial duties. Co-ordinating and advisory functions could not have an official place at the Ministry, and the Minister could not be given those functions without a complete recasting and dislocation of the whole local government system. The conference unanimously adopted a resolution recording the opinion that the existing system is not sufficient to provide for many of the country's most important planning requirements, and that the system should be reinforced by the establishment of a National Advisory Planning Commission as recommended in the report above referred to. The conference commended that report to the Government and to the associations of local authorities, and urged effective action at an early date to implement it.

Official Secrets.

DURING the week H.M. Stationery Office published the proceedings of the Select Committee of the House of Commons on the Official Secrets Act and a report of the evidence submitted, together with the committee's first report, which was referred to in our issue of 8th October last. The proceedings indicate that a draft report was submitted by Mr. LEES-SMITH, and that it was rejected in favour of the report prepared by Sir JOHN GILMOUR, the chairman, by nine votes to four. This draft report of the minority criticises adversely the conduct of the Attorney-General in not giving

at the first interview with Mr. SANDYS the undertaking which he gave of the interview of the following morning to the effect that s. 6 of the Official Secrets Act, 1920, would not be used against Mr. SANDYS. Members of Parliament, the draft report states, receive a good deal of information through their private connection with men in official positions, and it is generally conceded that this has, on the whole, been of service to the state, while examples of mischievous public disclosure are rare. Mr. SANDYS had obtained the information on the honourable understanding that it would be told only to the Secretary of State himself, and he explained to the Attorney-General that it would be a dishonourable act for him to betray his informant who had given him the information from patriotic motives. "If the Attorney-General was speaking to Mr. SANDYS as one member of Parliament to another, and not as Attorney-General to a potential accused," the report urges, "he should, as soon as he heard the nature of Mr. SANDYS' obligation to his informant have refrained from pressing the matter." Whatever views may be entertained on this subject—and, as the committee's report insists, in estimating the wisdom of the actions of Ministers concerned, the great pressure under which they work must be borne in mind—there will be few dissentients from the view expressed in the minority draft report that the issues involved "reach down to the foundations of the Parliamentary system." The applicability of the Official Secrets Act to members of the House of Commons in the discharge of their parliamentary duties—the second part of the task with which the committee is confronted—is a matter of importance far transcending differences of view entertained by its members in relation to the incidents leading to its appointment, and its conclusions on this general issue will be awaited with considerable interest.

Auctioneers' Licences.

SOME time ago the subject of auctioneers' licences engaged our attention in these columns. It may be remembered that a Select Committee of the House of Lords was appointed to examine the present law relating to auctioneers, house agents and valuers, and that the Committee made a number of recommendations in the course of its report of July, 1935. Conferences have taken place between the Auctioneers' and Estate Agents' Institute and the Incorporated Society of Auctioneers and Landed Property Agents on the question of promoting a Bill in Parliament on the basis of the recommendations, and some difference of view has been manifested. The council of the former body is of opinion that the evils which led to the appointment of the Committee occur in connection with sales of chattels rather than with sales of real estate, and even in the case of chattels the evils are not of great extent in relation to the number of auction sales which take place regularly throughout the country. The effect of an Act on the lines suggested would be to increase the cost of licences in certain cases, and compel all those entering the profession in future to apply yearly to a county court or a clerk of local justices for a certificate which would only be issued on the production of evidence of good character and financial standing. Existing fees are simply a tax for revenue purposes and are obtainable without any formalities. The council expresses doubt whether the possible benefit to the profession and the community which would follow from such an amendment of the law would be commensurate with the disadvantages entailed, and it is of opinion that the need for reform is not sufficiently urgent to warrant the trouble and expense of promoting a Bill in Parliament. The council also has in mind the recommendations of the Select Committee to the effect that the fee for valuers' and house agents' licences should be £10, that applications for licences should be addressed to the clerks of petty sessional courts, and that these measures should apply to all existing holders of licences. There is, in the council's view, a serious risk that, whatever the form in which a Bill was introduced, it would, in the course of its passage through Parliament, be amended so as to give effect to these recommendations. The council has therefore come to the conclusion that it is not in the interest of the profession to take steps to promote a Bill for the reform of auctioneers' licences.

A Different View.

ON the other hand the council of the Incorporated Society of Auctioneers and Landed Property Agents continues strongly to hold the view that in the interests of the profession and as a protection to the general public some protective measures should be taken to implement the recommendations of the report, and particularly to that in which the committee advocated the introduction of a power to endorse, cancel or suspend a licence before its expiry on conviction for any offence in connection with the exercise of the profession of auctioneer, house agent or valuer. According to a statement recently issued by the Incorporated Society, it had been agreed that a Bill should be drafted based on certain points which had been formally agreed between the councils of the two bodies. These points differ in some respects from the recommendations of the Select Committee. They contemplated, for example, that licences should continue to be issued by the Commissioners of Custom and Excise to all present holders without inquiry, while the proposals of the committee were recommended to cover, on renewal, the licences of all existing holders. It is further stated that many conferences have taken place between the representatives of the two bodies without any real progress being made, and finally, in June, 1938, it was agreed that the representatives of the Auctioneers' and Estate Agents' Institute should report back to their council the result of these deliberations and request them to come to some decision of a definite character. The outcome has been indicated in the foregoing paragraph. The statement above referred to concludes with the intimation that the council of the Incorporated Society of Auctioneers and Landed Property Agents is now considering whether the reform can best be carried out by amending the existing law, or by introducing a system of voluntary or compulsory registration for the profession.

The Coal Act, 1938: Vesting of "Other Minerals."

THE secretary to the Coal Commission recently sent to the secretary of The Law Society a communication of some importance to practitioners who number mineral owners or mining undertakings among their clients. This communication is set out in full in the October issue of "The Law Society's Gazette," and we desire to express our indebtedness to our contemporary for being able to bring the matter to the attention of our readers. The Coal Commission recalls that the vesting provisions of the Coal Act, 1938, apply not only to coal but also to minerals other than coal which on 1st January, 1939, are comprised in a lease which also comprises coal, unless the Commission, before 1st July, 1939, gives a direction to exclude such minerals (*ib.*, s. 3 (4)). It is recognised that, strictly speaking, it cannot be known definitely whether any "other minerals" are comprised in a coal-mining lease subsisting on 1st January, 1939, until that date has been reached. In most cases, however, it must already be known with practical certainty what other minerals will be comprised in such leases, and the Commission thinks that an early start on the investigation of cases would be for the general convenience. It therefore makes known its readiness to receive notifications from persons interested in other minerals comprised in a coal-mining lease who consider (*a*) that such other minerals "are or would be normally worked by surface workings and not in association with the coal or anthracite"; or (*b*) that, whether such minerals are worked by surface or by underground workings they are not, or normally would not be worked in association with the coal

(i.e., in or through the same ground as the coal); or (c) that the coal comprised in the lease is of such small value that (following the words of s. 17 (3) of the Act) the working of the coal is unlikely to have been undertaken, or in the future to be undertaken, except as an operation subsidiary to the working of the other minerals. Such notification will, of course, facilitate the investigation of cases in which there may be found to be good reason for the issue of a direction that minerals other than coal shall be excluded from the vesting under the Act.

Revision of Revocable Settlements.

In the course of an article which appeared on p. 829 of our last issue, we drew attention to certain points in connection with the revision of revocable settlements in order to secure the relief from income tax given by Pt. II of Sched. III to the Finance Act, 1938, as respects settlements made before 27th April, 1938. We are indebted to a subscriber for drawing our attention to a further point of some importance in this connection upon which the ruling of Somerset House has been obtained. One of the conditions in order to secure abatement of tax is that "a new settlement has been made by the settlor by virtue or in consequence whereof the settlor is liable to make the like annual payments and cannot, except in the event of his death, cease to be liable to make those payments before the expiration of six years from the date when the first of the annual payments payable by virtue or in consequence of the revoked settlement became payable," *ibid.*, para. 1 (*c*) (ii). The clause appears to contemplate that the obligation of the settlor must be such that his death is the only event in which he can cease to be liable within the period specified in the clause. Settlements of the kind in question are, of course, ordinarily drawn on the basis that the obligations of the settlor shall cease not only on his own death but also on that of the beneficiary, and we understand that the Board of Inland Revenue has been asked whether the fact that the payments were made to cease on the death of the beneficiary would render the provisions relating to tax abatement inapplicable. A reply from Somerset House intimates that the Board would not regard the fact that annual payments might cease on the death of the beneficiary as precluding relief under the paragraph in question.

Juvenile Courts: New Rules and Circular.

The attention of readers may be briefly drawn to an explanatory circular which has recently been issued by the Home Office and sent to juvenile court justices and the clerks to the justices, concerning the changes recently made by the Lord Chancellor under s. 47 of the Children and Young Persons Act, 1933, by amendments to and extensions of the Summary Jurisdiction (Children and Young Persons) Rules, 1933. That these changes have been effected by the Summary Jurisdiction (Children and Young Persons) Rules, 1938, with reference to the provisions of the Act of that name mentioned in a "Current Topic" in our issue of 24th September. It only remains to give some idea of the contents of the circular. The court may now direct that a child who appears to be under the age of five years need not attend at any adjourned hearing of an application, and the Home Secretary suggests that the court may properly exercise this discretion to take the final decision in the child's absence in cases where the child's parents are present. In cases of non-compliance with a school attendance order, arising under s. 45 of the Education Act, 1921, the child is not a direct party to the proceedings, nor is there any statutory requirement for its presence. But the Home Secretary expresses the hope that in such cases every court will adopt the practice of those courts which already secure that the child shall be present. Such child should, it is urged, be entitled to the same rights as any other child appearing before the court, and one of the new rules has been made for this purpose. The Home Secretary also hopes that the practice of arranging for the child's presence in applications for school attendance orders under s. 44 of the Education Act, 1921, will be generally adopted. The Rules of 1933 which contained a number of innovations are stated to have worked extremely well. Particular attention is drawn to those rules requiring the court to consider the desirability of adjourning a case for further inquiries when the necessary information about a boy or a girl is not already fully available and the circular concludes by insisting upon the capital importance of this part of the procedure. The new Rules came into force on Thursday.

Recent Decisions.

In *Nokes* v. *Doncaster Amalgamated Collieries, Ltd.* (p. 853 of this issue) a Divisional Court (Lord Hewart, C.J., and Charles and Macnaghten, JJ.) upheld a decision of justices to the effect that the words of s. 154 of the Companies Act, 1929, are apt to transfer the interest of a transferor company in the contracts of service existing between it and its employees, so that where the court makes an order under the foregoing section the employees of the transferor company become the employees of the transferee company. Leave to appeal was granted.

In *Thompson* v. *Thompson* (p. 853 of this issue), the Court of Appeal (Sir Wilfred Greene, M.R., and Scott and Clauson, L.JJ.) upheld a decision of Langton, J., who had ordered that the King's Proctor should pay three-quarters of the petitioner's taxed costs of an intervention to show cause why a decree *nisi* should be rescinded. The King's Proctor had been requested to make inquiries and under the direction of the Attorney-General filed a plea alleging that the decree ought not to have been obtained on the ground that adultery between the respondent and the intervener had not taken place. The plea was put in as the result of an exercise of discretion by the Attorney-General and not by any order of the court. The relevant section of the Supreme Court of Judicature (Consolidation) Act, 1925, was s. 183 (2), not s. 181 (1). There was not, therefore, any ground for interfering with the exercise of the learned judge's discretion.

In *Rex* v. *Tanfield* (*The Times*, 18th October) the Court of Criminal Appeal (Lord Hewart, C.J., and Charles and Macnaghten, JJ.) refused an application for leave to appeal against a conviction at the Central Criminal Court of conspiracy to defraud and false pretences. The appellant complained of certain questions put to him in cross-examination in breach, as he alleged, of the Criminal Evidence Act, 1898. The court indicated that the questions were in the circumstances admissible.

In *Rex* v. *Brain* (*The Times*, 18th October) the Court of Criminal Appeal (Lord Hewart, C.J., and Charles and Macnaghten, JJ.) dismissed the appeal of one who was recently convicted at the Central Criminal Court of murder. The court intimated that the summing-up of Wrottesley, J., on the issue of manslaughter, which from lack of evidence might have been withdrawn from the jury, was perfectly fair and adequate except for some small matters which were really beside the point.

In *Re Reardon Smith Line, Ltd.* v. *East Asiatic Co., Ltd.* (p. 855 of this issue) Branson, J., upheld an umpire's award in favour of charterers to the effect that the term "obstructions" in a charter-party applied not only to the handling of a cargo, but also to the getting of the vessel herself into a berth. It was held therefore that periods during which the vessel was unable to load because a member of berths normally available for merchant ships had been requisitioned by the Government for the landing of troops and stores were to be excluded in reckoning the charterers' liability for demurrage. *Leonis S.S. Co.* v. *Rank*, 13 Com. Cas. 161, 295, followed.

Valuation of Annuities.

I.—FOR PROOF IN BANKRUPTCY.

It is necessary in several kinds of cases to ascertain the present value of an annuity. The method of doing so depends upon the purpose for which the valuation is required, and upon certain facts relative to the particular annuity.

The valuation of contingent debts, such as the liability to pay an annuity, for the purpose of proving for it in a bankruptcy, is governed by s. 30 of the Bankruptcy Act, 1914, which, after stating what kinds of debts shall, and shall not, be provable in bankruptcy, directs that the trustee is to estimate the values of provable contingent debts, and that there is to be a right of appeal from his decision. The section then proceeds, by sub-ss. (6) and (7), to enact that :—

> If, in the opinion of the court, the value of the debt or liability is incapable of being fairly estimated, the court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy.
>
> If, in the opinion of the court, the value of the debt or liability is capable of being fairly estimated, the court may direct the value to be assessed . . . and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

Hardy v. *Fothergill* (1888), 13 App. Cas. 51, shows that these subsections are to be interpreted widely. In that case (which concerned the liability of an assignee to indemnify a lessee) Lord Halsbury, L.C. (at pp. 356, 357), said :—

> " . . . the introduction of the adverb 'fairly,' giving a jurisdiction to the court to decide whether in particular cases a liability could not be fairly valued, seems to me to involve the principle that all liabilities subject to the express exception enacted by the statute were intended to be included, but that in the one case where the court should adjudicate that the liability was such that at that time it could not be fairly estimated, then and then only should the liability continue."

The Administration of Estates Act, 1925, s. 34 (1), and Sched. I, para. 2, directs that in the administration of the insolvent estate of a deceased person (whether by the court or otherwise) the same rules are to apply for this purpose as in bankruptcy.

There have been several cases on the question whether an annuity was capable of valuation at all. Thus, in *Re Jackson* (1872), 27 L.T. 696, on the dissolution of a partnership, the continuing partner covenanted to pay the retiring partner an annuity for life, but the annuity was to cease if the latter set up a business within a certain radius. The continuing partner became bankrupt. It was contended that the annuity was not a provable debt at all, because of the contingency that the annuitant might resume business within the specified area. It was held, however, that he was entitled to the annuity as long as he did nothing to deprive himself of it, and that, on the facts at the time of the bankruptcy, there was practically no contingency at all.

Again, in *Re Wood, ex parte Naden* (1874), L.R. 9 Ch. App. 670, a man went through a ceremony of marriage with his deceased wife's sister. Subsequently, there was a separation deed, with a covenant to pay her £40 a year for their joint lives, but with a proviso that, if they should live together again, the deed should be void. The court decided that the proviso was void, as the parties could not legally live together as man and wife, and that as so read the covenant was simply in the ordinary form of an annuity to a person for life. The annuity was, therefore, clearly capable of estimation and thus of being proved.

In *Re Blakemore* (1877), 5 Ch. D. 372, an annuity bequeathed for life or widowhood was held to be provable : and that the proper course was to ascertain the value of the annuity as a simple life annuity, and to deduct from that value such a sum as should be the proper deduction for the contingency of re-marriage. The same course was adopted in *Re Richardson* [1915] 1 I.R. 39, where an abatement of an annuity was necessary ; and this practice is also followed when a valuation is made by reference to the table in the Succession Duty Act, 1853. These points will be dealt with in the second article.

On the other hand, *Re Grieves, ex parte Pearce* (1879), 13 Ch. D. 262, was a case where an annuity could not be valued. A separation deed provided for the payment of £156 per annum to the wife during the joint lives of herself and her husband, and contained a covenant that the wife would not molest the husband, and that, if she did, it would be a good defence (or set-off) to any action for the annuity accruing after the breach. It was held that the value of this annuity could not be ascertained, because it was subject to at least two contingencies, namely, a set-off for the subsequent debts of the wife, and the possibility of the resumption of cohabitation.

In the similar case of *Re Batey, ex parte Neal* (1880), 14 Ch. D. 579, however, the decision went the other way. The husband covenanted in the separation deed to pay £350 a year to trustees for the wife : and the annuity was to cease (1) if the wife did not remain chaste, (2) if cohabitation was resumed, (3) if there was a divorce. Moreover, there was to be a proportionate reduction of the annuity if the wife became entitled to income independent of the husband exceeding £350 per annum. It was held that this annuity was capable of estimation.

In *Linton* v. *Linton* (1885), 15 Q.B.D. 239, it was held that periodical payments of alimony after a judicial separation are not capable of valuation, and, therefore, are not provable in the husband's bankruptcy. Accordingly, he continues liable to pay them even after his discharge. (*Watkins* v. *Watkins* [1896] P. 222, 226.) But in *Victor* v. *Victor* [1912] 1 K.B. 247, it was decided that a covenant for an annuity in a separation deed is provable in bankruptcy.

Re Sinclair [1897] 1 Ch. 921, was a case of an annuity which was created by a deed of covenant, and which was payable for the grantee's life, or until he should do or suffer some act whereby the annuity would become payable to someone else. The grantor's estate was administered by the court, and was insufficient. The actuary in his valuation stated that it would be impossible to purchase an annuity calculated with reference to the contingency of forfeiture ; and he disregarded the contingency in making the valuation. The court ordered the fund in court, representing the dividend on the amount of the valuation, to be paid over to the annuitant. This order was explained in *Re Dempster* [1915] 1 Ch. 795, as being based upon the fact that there was no gift over. In *Re Beecham's Settlement* [1934] Ch. 183, on the other hand, an annuity of £300 had been settled on protective trusts. The trustees proved in the settlor's bankruptcy for £6,098 15s., the present value of the annuity (the annuitant then being twenty), and also for arrears. There was apparently no difficulty about the valuation, which was based upon the Post Office Annuity Table.

The amount at which the value of an annuity is to be fixed, if the annuity is capable of valuation, is ascertained on the ordinary actuarial principles, and is the present value as at the date of the receiving order. The value is, of course, mainly dependent upon the annuitant's age. In the reported cases, however, this information is given only in *Re Blackmore*, *Re Grieves* and *Re Dodds*. In the first of those cases the annuity was £80, the age of the annuitant was sixty-five, and the present value of the annuity was fixed at £657. This figure was derived from Table 1 in the Schedule to the Succession Duty Act, 1853, which shows the values according to age of an annuity of £100 per annum held on a single life. The £657 is four-fifths of £821 12s. 6d., which is the value at age sixty-five of an annuity of £100 per annum.

This table is on the 4½ per cent. basis. In the result the widow was allowed to prove for (*a*) the arrears of the annuity at the date of the liquidation petition, (*b*) interest thereon, (*c*) the £657.

In *Re Grieves, ex parte Pierce, infra*, where the annuity was £156 for the joint lives of husband and wife, the ages are stated at thirty-nine and thirty-three, and the annuity was valued in the proof at £1,973 according to the Government Annuitants Table then in use.

In *Re Dodds, ex parte Pritchard, infra*, the age was seventy-four, the annuity was £1,440, and the valuation was based upon the Carlisle Table of Mortality. The claim was for £7,000, which appears to have been a round figure based upon a valuation at 6 per cent. according to that table. It will be seen that there has been no uniformity in the use of tables for this purpose, and it is understood that in practice any recognised table can be used.

The estimate must be made, in bankruptcy, as at the date of the receiving order (*Re Blakemore, supra*); and, in an administration by the court, as at the date of the judgment (*Re Bridges, supra*). The relevant date in an administration out of court would seem to be the date of death. As the valuation is of the present right to receive the annuity in the future, it follows that arrears of the annuity since the relevant date cannot be proved for (see *Re West* (1894), 28 I.L.T. 129).

A special problem arises when the annuitant dies before receiving a dividend on the amount proved for in respect of his annuity. Is his estate entitled to the dividend, or is the claim cut down to the arrears of annuity outstanding at the date of his death? As will be seen, the answer is that, if the trustee in bankruptcy made his valuation before the date of the annuitant's death, the latter's personal representative is entitled to a dividend on the amount of the valuation, even though the death may occur the next day.

The first case on this point, *Re Miller, ex parte Wardley* (1877), 6 Ch. D. 790, was indeed decided to the contrary. But this case was not followed in *Re Pannell, ex parte Bates* (1879), 11 Ch. D. 914. There there was a judicial separation with a covenant to pay £200 a year to trustees for the wife for life. The husband became bankrupt. The trustees tendered a proof for £698 12s., which was admitted, and a dividend was paid to them. The wife then died, and the registrar directed the trustees to repay £297, which was the difference between the £698 12s. and £401 12s., the accrued arrears of the annuity at the date of the widow's death. It was held, however, that this decision was wrong, and that the trustees could not be compelled to refund the difference. James, L.J., stated the rule on this point in these words (p. 916):—

> "The statute has converted the annuity for the purpose of proof into a gross sum immediately payable, and on that sum the creditor is entitled to receive dividend; both parties, the creditor and the trustee, taking the proof for better or worse."

Re Miller, supra, was also disapproved in *Re Coltman* (1894), 281 L.T. 108.

In *Re Dodds, ex parte Pritchard* (1890), 25 Q.B.D. 529, proof was made for the value of an annuity, and the trustee did not admit or reject the proof, or require further evidence, within the twenty-eight days prescribed by Bankruptcy Rule 260. Four months later, before any dividend had been declared or anything else had been done, the annuitant died. It was held that the omission to deal with the proof was not equivalent to an acceptance by the trustee of the value stated in the proof, and that the annuitant's personal representative was entitled only to the arrears of the annuity up to the date of her death.

In *Re Bridges* (1881), 17 Ch. D. 342, a similar question arose in an administration of a deceased person's estate. A father covenanted in a settlement to pay his daughter £5,000 within one month of the death of his wife, and an annuity of £100 for the joint lives of himself and his wife and the survivor of them. After the annuitant's claim had been allowed by the Master, but before he had given his certificate, the widow died, so that the £5,000 became payable and the annuity came to an end. It was held that proof could be made for (*a*) the full £5,000, less a rebate of 4 per cent. per annum from the date of the judgment in the administration action to the date of the wife's death: (*b*) the arrears of the annuity at the date of the judgment; and (*c*) the full amount of subsequently accruing payments, less the same rebate. It should be noted that here there was technically no valuation. The allowance of the claim by the Master was merely a provisional act, upon which the judge was to base his decision, and the court's estimate would have been made when the judge made the order on further consideration.

(To be continued.)

The Advancement of Infants.

THE Trustee Act, 1925, s. 32 (1), provides that trustees may pay or apply any capital money for the advancement or benefit of any person entitled to the trust property, provided that the money so paid or applied shall not exceed one-half of the presumptive or vested share. Sub-section (2) provides, however, that the section does not apply to trusts coming into operation before the commencement of the Act.

A trust within the latter category, i.e., outside the scope of the above Act, was recently considered at Willesden County Court in *In re Clarke, deceased; Humphrey* v. *Humphrey and Others*. The applicant was aged eighteen and a half years, and (through her father as next friend) she applied for an order that the respondents be authorised to realise £50 out of certain investments for the purpose of paying for her training in beauty culture. The applicant's case was that, on her attaining the age of twenty-one years, she would be absolutely entitled to £350 now invested in the name of the respondents as trustees of the estate of Miriam Clarke, the applicant's grandmother. The testatrix had died in 1922, and administration (with the will annexed) had been granted to her daughter, the applicant's aunt, who was also the tenant for life. The latter had died in 1923, and letters of administration (*de bonis non administratis*) had been granted to the respondents, who were the parents of the applicant, and joint residuary legatees with the applicant (and her brothers and sisters) under the will of the testatrix. The shares of the other beneficiaries had all been paid over (on their attaining their majorities) but the applicant's share was still held in trust. The evidence was that it would be for the applicant's benefit to learn beauty culture, and corroborative evidence was given by her father (the first respondent) that the applicant would ultimately be able to enter into partnership with one of her sisters, a chiropodist. His Honour Judge Drucquer held that, under the County Courts Act, 1934, s. 52 (*e*), there was inherent jurisdiction in cases outside the Trustee Act, 1925, to authorise the advancement of an infant. An order was therefore made, in the terms of the originating application, subject to the filing by the applicant's father (or by the solicitor for all parties) of the fitness and *bonâ fides* of the firm to whom the fee for training the applicant was proposed to be paid. Solicitor and client costs, on scale B, were ordered to be taxed and paid out of the estate.

Trustees who advance a portion of an infant's capital, without statutory authority or an order of the court, incur the risk of being called upon to refund the amount, on the beneficiary attaining the age of twenty-one years. In the case of payment of premiums for training, a loss of capital may be incurred by reason of the incompetence or insolvency of the "school" or "college" undertaking the tuition of the infant.

A leading case on advancement is *Roper-Curzon* v. *Roper-Curzon* (1871), L.R. 11 Eq. 452, in which it was pointed out

that the advancement must not be merely to put money into the infant's pocket. In *In re Aldridge* (1886), 55 L.T. 554, Lord Justice Cotton defined advancement as " a payment to persons who are presumptively entitled to, or have a vested or contingent interest in, an estate or legacy, before the time fixed by the will (or settlement) for their obtaining the absolute interest in a portion, or the whole of that to which they would be entitled."

However enthusiastic a beneficiary in the late 'teens may be, it behoves trustees to exercise discrimination in realising trust funds during minority. If the venture proves unsuccessful, the beneficiary (at twenty-one) may claim re-imbursement by reason of the failure of the trustees to exercise their business experience and worldly wisdom on his (or her) behalf when the beneficiary was in need of a restraining hand.

Hire-Purchase Act, 1938 and Existing Agreements.

Advisers of hire-purchase traders have recently been considering to what extent hire-purchase agreements must be immediately altered so as to conform with the requirements of the Hire-Purchase Act, 1938.

Although the Act does not come into force until 1st January, 1939 (s. 22 (2)), and does not apply, with certain exceptions, in relation to any hire-purchase agreement or credit-sale agreement made before the commencement of the Act (s. 20 (3)), the exceptions deserve careful consideration by those whose duty it is to advise hire-purchase traders and hirers and to draft hire-purchase agreements.

It will, of course, be borne in mind that the Act applies in relation only to those hire-purchase agreements and credit-sale agreements under which the hire-purchase price or the total purchase price, as the case may be, does not exceed : (*a*) where the agreement relates to a motor vehicle or railway wagon or other railway rolling stock, the sum of £50 ; (*b*) where the agreement relates to livestock, the sum of £500 : and (*c*) in any other case, the sum of £100.

The first exception is contained in s. 20 (1) (*a*), which provides that s. 9 of the Act applies in relation to all hire-purchase agreements, whether made before or after the commencement of the Act, so far as it relates to payments made after the commencement of the Act. Section 9 gives a hirer under two or more hire-purchase agreements to the same owner the right to appropriate his payments to any of the agreements in such proportion as he thinks fit, in default of which appropriation the payments are to be appropriated to the sums due under the respective hire-purchase agreements in the proportions which the sums due bear to one another. Contracting out of this section is expressly forbidden as the section provides that it applies notwithstanding any agreement to the contrary. It follows that any clause in a hire-purchase agreement purporting to give a creditor a right to appropriate payments to particular agreements in priority to the right of appropriation which the debtor normally has at the time of payment (*Clayton's Case* (1814), Mer. 605) will only be valid as regards payments made before 1st January, 1939. There will therefore be no need to modify agreements in this respect.

Section 20 (1) (*b*) provides that ss. 11 and 15 apply in relation to all hire-purchase agreements, whether made before or after the commencement of the Act, so far as they relate to the recovery of possession of goods after the commencement of the Act. These sections forbid the owner to recourse to any right to recover possession of the goods otherwise than by action where one-third of the hire-purchase price has been paid or tendered by or on behalf of the hirer or any guarantor. This is without prejudice to any right of the hirer to determine the agreement and does not apply where he exercises such a right (s. 11 (3)). Where a second agreement is entered into after one-third of the hire-purchase price has been paid under the first, the owner is restricted to his right of action for possession of the goods under the second agreement after one-third of the hire-purchase price of the goods comprised in the second agreement has been paid or tendered (s. 11 (5)). The fact that the notice in the Schedule, which must be contained in the note or memorandum of a hire-purchase agreement under s. 2, contains the restriction of the owner's rights, does not affect the position, because s. 2 applies only to hire-purchase agreements made after 1st January, 1939. In view of the highly penal provisions of s. 11 (2), which determines the agreement, releases the hirer from all liability under it and enables the hirer and guarantor to recover all sums paid, a contracting-out clause in the agreement will be ineffective (*Langton* v. *Hughes* (1813), 1 M. & S. 593, 596, and *Mellis* v. *Shirley Social Board* (1805), 16 Q.B.D. 446).

These provisions merely restrict the exercise of the licence to seize as from 1st January, 1939, but as they affect all agreements traders will be wise to make the amount of the " hire-purchase price " appear clearly in agreements which they prepare now. This is the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of goods to which the agreement relates, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement (s. 21 (1)). This is also important in connection with ss. 10, 12, 13, 14 and 15, all of which deal with actions to recover possession of the goods after 1st January, 1939, and apply to agreements made both before and after 1st January, 1939 (s. 20 (1) (*c*)). It is also important to bear in mind that, for the purpose of ss. 11, 12, 13, 14 and 15, where an owner has agreed that any part of the hire-purchase price may be discharged otherwise than by the payment of money, any such discharge shall be deemed to be a payment of that part of the hire-purchase price (s. 21 (2)).

It would therefore be as well if the agreement sets out any part exchanges that may be agreed.

There is one further point which is worth careful attention. Under s. 21 (2), where the hire-purchase agreement has been made before 1st January, 1939, and the owner has carried out any installation charges in consideration for the hire-purchase price, he should serve upon the hirer as soon as possible a notice specifying a sum not exceeding the expense actually incurred by the owner in respect of the installation. This is because under s. 20 (2) the installation charges will be deducted from the hire-purchase price so that one-third of the difference should be the sum mentioned in ss. 11, 12 and 15 instead of one-third of the total inclusive of the installation charges, but this is not operative until after the expiring of twenty-eight days from the service of the notice.

Company Law and Practice.

The Powers of a Secretary—An Interested Director.

From time to time, instead of taking a general topic for the subject of my article, I deal with cases which have only recently been reported. Looking through the reports which have been published during the last few weeks I find very little which can be of interest to the company lawyer, but one case which came before Bennett, J., as long ago as April last, seems worth noticing. This is the case of *Re Cleadon Trust Ltd.*, 159 L.T. 328, which raises a few small points of general interest. The proceedings took the form of a summons in the winding up of the company, the applicant seeking to set aside the liquidator's rejection of his proof in the winding up. The winding up was a members' voluntary winding up, and the previous history of the company, so far as it is here material, can be quite shortly set out. At all material times there were two directors, of whom the applicant on the summons was one.

Each director was a large shareholder, and there were a further sixty-one shareholders, including the secretary of the company, one A. The company had two subsidiary companies, the directors and secretary of which were the same persons as the directors and secretary of the parent company. The two subsidiary companies had in some way, which it is neither easy nor necessary to understand, become concerned in the erection of a block of flats, and in connection therewith owed sums of money to the building contractors. A, the secretary of the two subsidiary companies and of the parent company, requested the applicant to advance to the subsidiary companies the amounts which were required by them to satisfy the claims of the building contractors, and the applicant acceded to this request and made various payments to the two subsidiary companies at various times. The transactions were effected on the footing that the applicant was lending the money to the parent company which in turn lent it to the two subsidiaries. This was no doubt the intention of the applicant, but unfortunately for him the necessary formalities were omitted. A, at whose request the advances were made, was not authorised by the parent company to borrow money on its behalf, and the transaction had not got the sanction of a resolution of the board of that company. Now, as has been pointed out time after time, a company is a separate legal person or entity which can transact business in certain prescribed ways only, and if the technicalities are not complied with, the result, so far as the company is concerned, is a nullity. The advantages and benefits of incorporation under the Companies Act with limited liabilities are not to be obtained without certain disadvantages. The disadvantages are not great. For the most part they consist of knowing and remembering a few rules of conduct, but those who forget those rules or choose to ignore them as tiresome or unnecessary may find that they have thrown away all the advantages. In the present case we have a director of a company (the applicant) making an advance to another company at the request of the secretary of the first company. Can that director look to the first company for repayment of the sums alleged to have been advanced at its request? Perhaps certain doubts were present to the minds of the parties, for, at a later date, a board meeting of the parent company was held at which the two directors (of whom the applicant was one) resolved that the advances made by the applicant to the two subsidiary companies "which were made at the request of" the parent company be confirmed. The wording of the resolution, to which I have drawn attention by means of inverted commas, was, as we shall see, rather unfortunate. Such being the position, the parent company went into liquidation and the applicant put in a proof for the amount of the sums which he had advanced, as he said, at the request of the parent company. The liquidator rejected the proof, and in his notice of rejection contended that the advances were never made at the request of the parent company and that the resolution of the board to which I have referred was invalid and not binding. A number of points emerge which, though they do not provoke any very far-reaching discussion of principle, serve nevertheless to point a very useful moral.

The first point concerns the position of the secretary. The applicant had in the first place been approached by the secretary with the request for the advances. It was argued that this request could be taken as being the request of the company and that the company accordingly had come under a liability to reimburse to the applicant the amount of his advances. Bennett, J., dismissed this argument in a few words. The learned judge thought it impossible to hold a limited company liable to repay moneys paid for its benefit at the request of its secretary. A secretary of a limited company has no authority to make such a request and so involve the company of which he is secretary in liability. I do not wish to elaborate the point about the secretary, because a whole article was devoted to his position in these columns not very long ago. I need only add this: So far as the company is concerned, the secretary is a servant who is bound to obey such orders as he may receive from the directors so long as he is not ordered to embark on a course of conduct which he knows to be wrong. The secretary is, however, also in some respects the agent of the company, and as such is capable of binding the company. This agency is restricted to scope of his duties as secretary, which are mostly of a clerical nature, and the decision in *Re Cleadon Trust*, *supra*, shows that, whatever else his authority may extend to, it does not include the borrowing of money in the company's name. To enable him to do this he would have to have express powers or directions given to him by a resolution of the board.

A second argument was put forward on behalf of the applicant. It was said that the company knew all the facts and intentions through the second director and the secretary; that it acquiesced in the arrangements made; and that therefore it was liable to return to the applicant the amount of his advances. Now, at the beginning of this article, when I was setting out the facts of the case, I mentioned that besides the two directors there were sixty-one other shareholders. These other shareholders only had small holdings in the company, but they existed none the less. As members of the company they had certain rights, one of which was to insist on the affairs of the company being run in accordance with the provisions of its articles of association. They had not known of or acquiesced in the transactions, and it therefore could not be argued that all the co-operators had agreed to them. The only other way in which the company could act was through its board of directors, and here again it had not in fact done so. The articles provided that a quorum at directors' meetings should be two. They also provided that no director should vote in respect of a contract or arrangement in which he was interested. It was obvious, therefore, that no resolution of the board as constituted could have effected the arrangement, since the company had only two directors, of whom one was precluded from voting by reason of his interest in the proceedings. The position is thus stated by Bennett, J.: "Under the articles of association of the company its business is to be managed by its directors, of whom two are to be a quorum. There never was in the present case knowledge of the facts in two directors of the company competent to act on behalf of the company, and the knowledge of the secretary and acquiescence by him cannot in my judgment be held to be knowledge and acquiescence of the company of such a quality as to enable a promise to pay to be implied on behalf of the company. To import a promise by the company to pay in such a case as the present, there must be proof that a quorum of directors competent to act had knowledge that the payments were being made and that the payer expected to be repaid by the company and that the company benefited by the payment and acquiesced in the payments being made. There is no such proof in the present case, and, therefore, for those reasons, in my judgment the argument for the applicant fails."

There remains the resolution of the directors which was passed in the circumstances which I have already recounted. I remarked that the wording of that resolution was unfortunate. It purported to confirm advances which were made at the request of the company, and the first argument which springs to the mind is that the advances never were (as we have now seen) made at the request of the company, and that therefore the resolution was seeking to confirm something which had never happened. No resolution, as the learned judge remarked, could convert into fact something which had never been. But even assuming that the resolution might have some effect as ratifying or adopting some previous act, it was still without effect. Reading it in this way, it was an attempt to bind the company to some sort of a contract with the applicant. The applicant was debarred by the articles from voting on such a resolution; without him there was no quorum; and so the resolution was invalid.

A Conveyancer's Diary.

Effect of Covenant not to Exercise a Power of Appointment.

THE question which I propose to discuss this week is the effect of a covenant not to exercise a power of appointment.

There are two ways of looking at it. It may be that such a covenant by the donee of a power, at any rate if entered into with those or some of those interested in default of appointment or with the trustees of the fund the subject of the appointment, has the effect in equity of completely releasing the power. It may be, on the other hand, that the effect is not entirely to release the power so that if the covenantees should release the donee of the power from the covenant, the power remains and may be exercised. It is with regard to the effect of a release of such a covenant that I particularly wish to deal.

There seems to be no satisfactory authority deciding that point, but it appears to follow logically from some cases to which I will refer that a covenant not to exercise a power releases the power entirely and that a subsequent release of the covenant has not the effect of bringing the power to life again.

Davies v. *Huguenin* (1863), 1 H. & M. 730, is a case in point.

The facts there were that a father had a power of appointment among his children, under his own marriage settlement, of certain funds subject thereto, which funds were in default of appointment to be divided among the children equally. In a settlement made on the marriage of one of his daughters the father covenanted that he would not exercise any appointment to defeat, lessen or diminish the share to which the daughter would be entitled in default of appointment, but on the contrary would do all acts that might be requisite to confirm and establish such share so that the daughter should receive £1,500, which was the sum to which the daughter would be entitled in default of appointment. There were various points raised, with which I am not concerned here, but the result so far as material was that the covenant by the father was held to be a release *pro tanto* of his power of appointment, and as he had made an appointment which had the effect of reducing the daughter's share to less than £1,500, her trustees were entitled to have her share made up to that sum out of the capital of the funds.

In his judgment, Sir W. Page-Wood, V.-C., said: "It is almost too clear for argument (though the point was raised) that the covenant by the father operated *pro tanto* as a release of his power."

The actual decision was partly overruled by a later case, which I will mention, but the passage which I have quoted was cited with approval.

In *Isaac* v. *Hughes* (1870), 9 Eq. 191, the facts were that by a post-nuptial settlement made in 1837, a settlor granted lands to trustees upon trust, after the death of the settlor and his wife, to such persons and for such uses as the settlor should by will appoint, and in default of appointment for all the children of the settlor. The deed contained an ultimate limitation, if there should be no child of the settlor's then existing marriage, for the settlor absolutely. In 1841 the settlor's wife died leaving four children. By a resettlement in 1848, to which the same trustees were parties, after reciting that it was proposed that the settlor should give up his life interest in the settled property and forego the power given to him of appointing by will, the property was resettled upon the trusts thereby declared and the settlor covenanted with the trustees that he would not make any will whereby the trusts therein declared might be in anywise impeached or defeated.

It was held that the covenant was a release of the power. Sir W. M. James, V. C., in his judgment said: "I am of opinion that there was a good equitable release on the part of the settlor on the grounds that the power was an equitable power and the trustees of the original settlement were parties to the covenant whereby the donee of the power, in effect, assured them he never intended to exercise the power. I am of opinion that the settlor, having by a deed between him and the trustees in whom the fund was vested, told them that he would forego the power, that was as good as if he had said in so many words 'I release the power'."

I do not quite see why stress was laid upon the fact that the covenant was with the trustees. The result would apparently have been the same if it had been entered into with the children.

In *Re Evered: Molineux* v. *Evered* [1910] 2 Ch. 147, a lady had under her marriage settlement a testamentary power of appointment over a fund among her children and issue and in default of appointment the fund was to be divided after the death of the survivor of the husband and wife among her children equally. In exercise of the power she appointed by her will a sum of £60,000 to be divided between her six sons and settled upon them and their children and the residue to be divided between her six sons and her daughter and their children. Subsequently she covenanted with three of her sons not to exercise her testamentary power of appointment in such a way as to reduce their respective shares in the fund below £7,000 apiece.

It was held that the fetter imposed by these covenants involved the consequence that each of the seven children should receive £7,000 absolutely as in default of appointment, and that an appointment made by her will operated only upon the balance of the funds after deducting £49,000.

In the course of his judgment Buckley, L.J., said of a donee of a power: "He can release his power or covenant that he will not exercise it (which will be equivalent to a release)." And later he quoted the passage, to which I have referred, in the judgment of Sir W. M. Page-Wood, V.-C., in *Davies* v. *Huguenin*, and expressed agreement with it.

The result seems to be that a covenant not to exercise a power or not to exercise it in a certain way is a release of the power wholly or *pro tanto*. If that be so, once the covenant is entered into the power is released either wholly or in part, as the case may be.

In none of the cases which I have mentioned, however, was there any subsequent release of the covenant by those with whom it was entered into, so the cases are not direct authorities upon the effect of such a release of the covenant. But it seems to follow that a release of a covenant of that kind will not revive the power.

Landlord and Tenant Notebook.

Verbal Evidence when Document Available.

IN what circumstances may a party in an action concerning a tenancy be allowed to prove his case by oral testimony and without producing documents he mentions? In other words, how, apart from considerations which may affect the interests of the Revenue, does the maxim "the court must have the best evidence" apply to such cases?

It was held in *R.* v. *Holy Trinity, Kingston-upon-Hull* (1827), 7 B. & C. 611, that counsel in a poor law "removal" case ought to have been allowed to ask the pauper concerned, in cross-examination, whether he had occupied a tenement in a particular parish as a tenant, though his occupation had been under a written contract of tenancy which was not produced. But a case of this kind is, of course, not a sure foundation for a doctrine to apply to landlord and tenant cases generally. All it lays down is that when what matters is the fact of the relationship, not its terms, the document can be dispensed with.

But that verbal evidence must at least warrant an inference in such cases was demonstrated a few years later by the

decision in *Doe* v. *Harvey* (1832), 8 Bing. 239, which was an action for mesne profits. The evidence for the plaintiff consisted of a record of the judgment for possession obtained against a particular tenant and verbal testimony to the effect that the son of the defendant in that case had let the defendant in the present case into possession under a written agreement, which was not produced. Tindal, C.J., said: "If nothing had been in issue but the single fact whether the defendant held or occupied the land, such fact might undoubtedly be proved by the payment of rent, declarations of the tenant, or other parol evidence sufficient to establish it, notwithstanding that it appeared that he held under an agreement in writing. . . . But here the question is not merely whether the defendant held the premises, but whether he held them as tenant to P [the defendant in the ejectment action]."

The point was very hotly contested in *Strother* v. *Barr* (1828), 5 Bing. 136, the court being evenly divided (two and two) on a motion to set aside a judgment obtained by the plaintiff at York Assizes. The claim was for injury to a reversion in a house, let in separate parts to two different tenants. One of these deposed that he occupied part of the premises: that the plaintiffs were his landlords: that he had an agreement in writing with them—which was not produced. The plaintiffs' freehold title was proved by production of proper documents. The argument for the defendant was that the nature and term of the tenancy affected the quantum of damages. The judgments occupy some twenty-three pages of the report, and while each of the four learned judges expressed his regret at differing from two colleagues, it may be said that the principle applied was substantially the same. Colloquially this might be expressed "Did it matter?" One is inclined to agree that the extent to which a reversion is injured must to some extent depend on its value, which in turn may depend on the amount of term outstanding. However, in the result, the decision is an authority for the proposition that it is unnecessary to produce the lease or tenancy agreement when suing for injury to a reversion.

Two cases arising out of the levy of distress may next be mentioned, failure to produce documentary evidence having been fatal to the defendant's case in the one but considered unimportant in the other. The first was *Shepherd* v. *Cafe* (1833), 5 C. & P. 418, in which the plaintiff was a third party who had sent a chaise to a coach-maker "on standing," which meant with a view to its being sold. The coach-maker being in arrear with his rent, the defendant, as bailiff for the landlord, seized and sold the chaise. The plaintiff replevied it. The line he took suggests that he relied on the common law privilege of goods of a third party left with the tenant in the way of his trade—it was later held, in *Findon* v. *McLaren* (1845), 6 Q.B. 891, that a cab sent to a coach-maker and commission agent for sale was so privileged, but the tenant in *Shepherd* v. *Cafe* does not appear to have been a commission agent. The defendant, of course, relied on the fact that rent was owing: he called a witness, who stated that the coach-maker held the premises under a lease: no lease was produced, however, and on this ground the court gave judgment for the plaintiff.

In *Howard* v. *Smith* (1841), 3 Man. & Gr. 254, another replevin action, the plaintiff was the alleged tenant: "alleged" because his plea was *non tenuit*. The defence thereupon called (1) a witness who deposed that he (the witness) had previously held and occupied the premises under a tenancy agreement with the defendant's principal (the defendant was again the bailiff): that he had been present when the plaintiff and the said landlord had agreed that the plaintiff should take the property on the same terms as those on which the witness had held it: that the terms were not otherwise specified in the witness's hearing; (2) a witness who had heard the plaintiff say that he had paid £2 towards his quarter's rent due at Michaelmas; (3) a witness who had heard the plaintiff say to a neighbour: "I don't know why you should pay only £18 a year, when I pay £20." It was objected that the tenancy agreement referred to by the first witness had not been produced, and that there was therefore no evidence of the tenancy, but this objection was overruled.

The five cases briefly discussed above concern a variety of matters and causes of action, but, with the possible exception of *Strother* v. *Barr*, it can be fairly said that none of them infringes the rule that the court must have the best evidence, and that when a relevant transaction is recorded in a document that document must be produced. Incidentally, this principle is expressly applied to arbitrations under A.H.A., 1923, by para. 8 of the Second Schedule to that Act. The parties to the arbitration, and all parties claiming through them respectively, shall, subject to any legal exception, produce before the arbitrator all books, deeds, papers, accounts, writings and documents, etc. In the first and last of the authorities mentioned, though one dealt with proof of a pauper's settlement and the other with the right to distrain, the point is substantially the same: verbal evidence that A and B were landlord and tenant may be given, though a written agreement existed between them, when the only issue between the parties is whether the relationship existed, and there is no question as to what were its terms. In one of the "distress" cases, *Howard* v. *Smith*, the bailiff defendant might have been in a difficulty if, say, the claim had been for excessive distress and the issue the amount of rent payable: I say "might," because it has not yet been decided whether a verbal agreement which adopts the terms of a written one can be proved without producing (or explaining the failure to produce) the latter: even "holding over" cases have given us no authority on this point. Apart from this question of relationship, there is another ground on which *Howard* v. *Smith* may be supported; the verbal evidence was evidence of admissions, and the commercial case of *Slatterie* v. *Pooley* (1840), 10 L.J. Ex. 8, and other authorities at least suggest that admissions by a party are primary proof against himself even if they relate to the *contents* of a document which is not put in. As to *Doe* v. *Harvey*, I think the real point of that case is not that the relationship might not be proved by oral testimony, but that the oral testimony tendered did not in fact prove it. *Shepherd* v. *Cafe*, the replevin action which the defendant lost owing to his failure to produce the lease, is, I agree, difficult to reconcile with *Howard* v. *Smith*, except by invoking the principle of admissions just referred to; but apart from the fact that the report is somewhat scanty and does not clearly state the true issue, it may be observed that the bailiff's evidence was at the best mere hearsay.

Our County Court Letter.

THE RECOVERY OF TITHE REDEMPTION ANNUITIES.

In *Tithe Redemption Commission* v. *Grainger*, recently heard at Penrith County Court, the claim was withdrawn and the respondent applied for costs. His case was that he had bought (in 1912) land at Appleby, which had been in the ownership of one family for 100 years. In 1922 the respondent had redeemed the tithe rentcharge through the Ministry of Agriculture. Although he had kept all the receipts, the respondent (having then been in practice as a doctor) had been too busy to obtain a certificate of redemption. In 1934, the applicants' predecessors in title began to worry the respondent for small amounts, e.g., twopence, fourpence, eightpence, etc. The applicants had since sent demands for six separate tithes in respect of one 18-acre field, and he had been summoned, some months ago, at Appleby County Court. The matter was gone into before the registrar, and, from the subsequent correspondence, it appeared that the commissioners withdrew their claim provided that the respondent would not ask for costs. His Honour Judge Allesbrook held that the correspondence disclosed a final withdrawal

of the claim, and the respondent therefore withdrew his claim for costs.

THE CONTRACTS OF POLITICAL AGENTS.

In a recent case at Stamford County Court (*Turton* v. *Ruddle and Dixon*), the defendants were the chairman and agent respectively of the Rutland and Stamford Divisional Conservative and Unionist Association. The plaintiff was a former assistant agent of the division, and his case was that, having applied for the position, he was interviewed by the defendants. The plaintiff was informed that he would be expected not to leave until after the next general election, and that he would have opportunites of tuition in order to become an agent. Having been selected, at a salary of £150 a year, the plaintiff commenced his duties in March, 1938. On account of the trivial nature of his duties, the plaintiff complained to the second defendant, who replied that the plaintiff would soon learn. Shortly afterwards, however, the plaintiff was given a month's notice, and his request to go before the divisional association was refused. He accordingly claimed damages for wrongful dismissal. The defence was that, although the letter of appointment did not mention a probationary period, the plaintiff was given to understand (at the interview) that the permanency of his situation was dependent upon his suitability. The plaintiff, however, was unsuitable in the sense that he did not consider his duties were sufficiently important. His Honour Judge Galbraith, K.C., gave judgment for the plaintiff for £100 and costs.

INCOME TAX AS CAUSE OF WRONGFUL DISMISSAL.

In *Coltman* v. *Vickers, Mount & Co.*, recently heard at Leicester County Court, the claim was for damages for wrongful dismissal. The plaintiff was employed as a motor van driver, at £2 5s. a week, and had received a summons (for non-payment of £3 10s. arrears of income tax) late on a Saturday night. On the Monday morning the plaintiff went to interview the Inland Revenue authorities, but—not anticipating a long interview—he did not inform the defendants of his whereabouts. Having been referred by the collector to the inspector (at a different address) the plaintiff was occupied, in queues and interviews, until late in the afternoon. He succeeded in establishing his non-liability for the alleged arrears, and the summons was withdrawn. On attending at business next day, the plaintiff was informed that he had broken his contract, and that he had been summarily dismissed. No wages were paid in lieu of notice, and the plaintiff claimed unemployment benefit. The Court of Referees held, however, that he had no reasonable excuse for absence from work, and his claim for benefit was disallowed for three weeks. The defence (to the claim for damages) was that the plaintiff had been told to report for duty at 10 a.m. on the Monday morning. At midday, owing to the plaintiff's non-arrival, the manager thought he must be ill, and made personal inquiries at the plaintiff's home. Another driver was obtained from the employment exchange during the afternoon. As the defendants' premises were only a short distance from the Inland Revenue offices, the plaintiff could have informed the defendants of what had happened to him. His Honour Judge Galbraith, K.C., gave judgment (by consent) for the plaintiff for £4 10s. and costs.

LANDLORDS' LIABILITIES UNDER THE HOUSING ACTS.

In *Adler* v. *Roach*, recently heard at Aberystwyth County Court, the claim was for £17 as arrears of rent. The plaintiff's case was that the house was let on a quarterly tenancy, but the defendant had left, owing to alleged dampness. An architect gave evidence that the house was not unfit to live in. The defendant's case was that the sanitary inspector had certified the house as unfit for human habitation, and a demolition order had since been made. His Honour Judge Frank Davies observed that the defendant was justified in leaving, but he should have given three months' previous notice, in view of the tenancy being quarterly. The house was of a type usually let at less than £26, and would normally have been within the Housing Act, 1936, which imposed certain obligations upon landlords. By letting houses at exorbitant rents, e.g., exceeding £26 per annum, landlords could escape from their liabilities under the above Act. The house in question was a case in point, so that there was no defence to the claim. Judgment was given for the amount claimed, payable at 4s. a month, with costs.

Books Received.

Tax Cases. Vol. XXX, Part VI. 1938. London: H.M. Stationery Office. 1s. net.

Jones' Solicitor's Clerk. Part I. By the late Charles Jones. Thirteenth Edition. 1938. By F. W. Broadgate. Crown 8vo. pp. x and (with Index), 417. London: Sir Isaac Pitman & Sons, Ltd. 6s. net.

The Finance Act, 1938. Discussed and Explained by L. C. Graham-Dixon, of the Inner Temple, Barrister-at-Law. 1938. Demy 8vo. pp. 107. London: Gee & Co. (Publishers), Ltd. 5s. net.

Company Law for Commercial Students and Business Men. By Albert Crew, of Gray's Inn and the Middle Temple, Barrister-at-Law; and W. G. H. Cook, LL.D. (Lond.), of the Middle Temple, Barrister-at-Law. Fourth Edition. 1938. Demy 8vo. pp. xxv and 374 (Index, 39). London: Butterworth & Co. (Publishers), Ltd. 7s. 6d. net.

A Manual of Farm Law. By N. H. Moller, M.A., LL.M. (Cantab.), Barrister-at-Law. 1938. Demy 8vo. pp. xliv and (with Index) 528. London: Stevens & Sons, Ltd.; Sweet & Maxwell, Ltd. £1 net.

The Law of Hire-Purchase. By W. G. Earengey, a Judge of County Courts, one of His Majesty's Counsel, LL.D. Second Edition. 1938. Demy 8vo. pp. xl and (with Index) 312. London: Stevens & Sons, Ltd. £1 1s. net.

Obituary.

Mr. N. L. GARRETT.

Mr. Newson Littlewood Garrett, B.A. Cantab., solicitor, senior partner in the firm of Messrs. Minchin, Garrett and Worley, of Stone Buildings, Lincoln's Inn, W.C., died on Monday, the 17th October, at the age of seventy-two. He was admitted a solicitor in 1893. Mr. Garrett was for many years a member of the Essex Volunteers, and on the outbreak of the Great War he took an active part in the formation of the 17th Battalion of the King's Royal Rifles, with which Battalion he served as a Captain in France and was subsequently appointed Major. His aunt, Dr. Elizabeth Garrett Anderson, founded the well-known Hospital for Women of that name, and Major Garrett had for many years been a member of the Managing Committee, and was at the date of his death joint Honorary Treasurer.

CORRECTION.

REVOCABLE SETTLEMENTS.

We are indebted to a subscriber for drawing our attention to certain errors in the article published at p. 829 of last week's issue on the above subject. In the last line of the first paragraph the words "Pt. III of the Finance Act, 1938" should read "Pt. IV." A little further on it is stated that under s. 38 (1) of the Act "the income . . . is not to be regarded as the income of the settlor." This should have read "of any other person."

To-day and Yesterday.

Legal Calendar.

17 October.—"On the xvii day of October [1552] was made vii serjants of the coyffe, at ix of the cloke they whent to Westmynster halle in ther gownes and hodes of morrey and russett, and ther servants in the sam colers, and ther was gyffen a charge and othe by the Kynges juges and the old serjants. This done, they retornyd with the juges and the old serjants and men of law unto Gray-yn to dener, for ther was a grett feast, and my lord mayre and many a nobull man; and the new serjants gyff rynges of gold; and after dener they whent unto Powlls and so whent up the tepes and so round the quiere and ther dyd they ther homage."

18 October.—The Courts of Justice as long as Westminster Hall was their seat were liable to periodical floodings when the Thames overflowed its banks. In 1735, the lawyers had to depart in boats. In 1791, the inundation

"... had like to have carried away
All the wigs and long robes of the nation."

For his last entry into the Hall Father Thames considerately chose the 18th October, 1841, then within the Long Vacation. The preceding ebb had carried the water so low that the river was in many places fordable. The rising tide, rushing up with unprecedented rapidity, flooded the town from Rotherhithe to Chelsea.

19 October.—On the 19th October, 1663, Mr. Justice Hyde, first cousin of Lord Chancellor Clarendon, became Chief Justice of the Common Pleas where he had already sat since the Restoration more than three years before. Save for considerable knowledge of all matters relating to the pleas of the Crown he was not a learned judge. During the year and a half that he survived to administer justice he showed particular zeal against anything in the nature of subversion.

20 October.—When to the joy of the Whigs and the discomfort of the Jacobites George I was crowned on the 20th October, 1714, Lord Chancellor Cowper was prominent at the ceremony. His wife, who was pushed out of her place by the Tory Lady Nottingham, had to mount the pulpit stairs where she had the best view in the Abbey. The Lords whispered to her husband that they hoped she would preach, to which he answered that she had zeal enough, but he did not know that she could. Lord Nottingham, however, reminded him that during the last four years when the Whigs had been in opposition, she had preached such doctrines "as had she been prosecuted in any court for them your lordship yourself could not defend."

21 October.—In about 1732, Mary East, a girl of sixteen, betrothed to a highwayman, had the sorrow to see her lover transported for life. Vowing herself to celibacy she joined with another girl, likewise crossed in love, and together they set out to seek their fortune with £30 between them. Mary was disguised as a man, and as husband and wife they took a little public house in Epping. They prospered and took a larger house in Limehouse. They prospered further and took the 'White Horse," at Poplar, where Mary became prominent in local affairs. Then, in 1766, an old acquaintance who knew her secret initiated a scheme of blackmail to accuse her of a robbery thirty-four years before. On the 21st October, one of the conspirators was convicted at Hicks's Hall and sentenced to four years in Newgate and to the pillory.

22 October.—On the 22nd October, 1910, Dr. Crippin was sentenced to death at the Old Bailey for the murder of his wife by poisoning her.

23 October.—On the 23rd October, 1761, Richard Parrott, an agricultural worker, was sentenced to death at the Old Bailey for the murder of his wife. The cause of her death was his having cut out her tongue for, he said, she was an intolerable scold.

The Week's Personality.

Dr. Crippin's was a strangely contradictory character. A short, slight, insignificant-looking little man, with a large domed forehead, prominent eyes and gold-rimmed spectacles, he had married a loud, buxom, good-looking woman, with vain aspirations to be a singer, on whose adornment he lavished an absurdly large proportion of his income. Courteous, hospitable and retiring in the circle of her Bohemian friends, he was ready to be satisfied with what she enjoyed but she brought him no happiness. They drifted apart emotionally, her inordinate vanity leading her to seek more than a husband's admiration. Everyone knows how in the end he fell in love with Ethel Le Neve, his secretary, quiet, ladylike, unassuming, the very antithesis of his wife, how Mrs. Crippin's body was eventually found dismembered under the cellar of his house and how he was condemned to death for her murder. His trial and death brought out all that was noblest in his character. Till the very end all his thoughts were for the well-being of Ethel Le Neve and just as in all the relations of his life he had behaved with kindness, consideration and unselfishness, so all those who came in contact with him in prison came to regard him with respect and almost affection. It is but fair to add that the sinister photograph which usually passes for his likeness is in fact that of a far from flattering model once in Madame Tussaud's.

Quality in Crime.

A press commentator on the recent Notice to Householders wherein the Metropolitan Police gave advice for the securing of houses against felonious entry observed that a policeman had once said to him: "We never get a good class of burglar these days." No doubt the criminal classes would bitterly resent this imputation, for a professional pride certainly exists among them. Not very long ago a prisoner at the Middlesex Sessions indignantly protested against a statement that the suspicions of the police were aroused because his pockets were bulging. Sir Montagu Sharp asked him rather impatiently what it mattered, but the man replied: "If I allow it to pass unchallenged your judgment will be that I am the type of criminal who is careless." The distinction arose in another way when a convicted man objected to being described as "a professional burglar" by Lawrance, J. ("Long Lawrance"). "I've only done it once before an' I've been nabbed both times," he said. "Oh, I did not mean to say that you had been very successful in your profession," replied the judge.

A Good Class of Burglar.

In the "good class of burglar" no practitioner has ever surpassed Thomas Caseley. At the Paris Exhibition in 1867 Samuel Chatwood, the great safe maker who had appreciated and rewarded his genius, backed him to open a safe which a German engineer claimed to be impregnable. He did it in twenty minutes. His recognition had come through a burglary at a Cornhill jeweller's, from whose safes he had carried off a record haul of eight hundred gold watches. After his conviction the jeweller brought an action against the safe makers on the ground that their safes were poorly constructed. The burglar was called as the plaintiff's expert witness and arrived in court carrying his outfit in a violin case. The trial was memorable for the lesson in safe cracking which he gave the Lord Chief Justice and for his lucid explanation of the functions of the different implements. "Unlawful tools," he explained, were tools which were too long or which made a noise. "You used the best class of lawful tools at Cornhill?" asked counsel. "When you say lawful," replied Caseley, "do you mean the word as a barrister would use it or as a burglar would use it?" Even the Lord Chief Justice joined in the roar of laughter.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Disposal of Tenant's Furniture.

Q. 3606. Brown is the owner of a decontrolled dwelling-house occupied by Thompson. Brown served a notice to quit on Thompson, issued a county court summons for possession and duly obtained an order for possession in twenty-eight days. Thompson has, owing to its being known that he is an undesirable tenant and to a scarcity of houses, so far failed to get any other accommodation for himself, his wife and five children. Brown for certain reasons is desperately anxious to get possession of the house and will shortly issue a warrant for possession. Thompson says that he will resist ejectment. If (as seems probable) the county court bailiff has forcibly to eject Thompson and his family, the bailiff will, of course, have to leave Thompson's furniture in the house (County Courts Act, 1934, s. 120), except such part of it as is taken by the bailiff in execution for mesne profits and costs. The question which therefore occurs to Brown is: what are his rights regarding the furniture—and there will be a large quantity—remaining in the house? Can he remove it to a storehouse and, if so, can he charge Thompson with the cost of storage; or must he keep it in the house until Thompson chooses to fetch it? In the latter case, can he claim any payment for storage?

A. It appears that there is no rent in arrear enabling the furniture to be sold in execution of a judgment for debt. The landlord can remove the furniture to a storehouse, but there is no contract by the tenant to pay the storage fees, and the landlord has no lien for such fees. Therefore, he cannot charge them to the tenant. There is no obligation on the landlord to keep the furniture in the house, as he has a right to vacant possession.

Disclaimer of Lease.

Q. 3607. We act for the landlords of certain property which has been leased to a limited company, an individual joining in as surety to guarantee payment of the rent and observance and performance of the covenants. The company has called a meeting of creditors and it seems likely that it may be wound up. We have been asked whether the surety can be compelled to pay the rent and observe and perform the covenants if the company fails to do so. The position with regard to this appears to us to be somewhat paradoxical, for although s. 267 (2) provides that a disclaimer shall not, except so far as it is necessary for the purpose of releasing the company and the company's property from liability, affect the rights or liabilities of any other person, the 23rd edition of *Woodfall*, at p. 475, states that if a limited company is lessee, the lease is determined as soon as the company has been wound up and dissolved, and by the authority of the decision in *Hastings Corporation* v. *Letton* [1908] 1 K.B. 378, the sureties are also thereupon released from further liability. We quite understand from the legal point of view that the landlord should not have two rents, but we have in mind that if the company is dissolved, there may be a period from the date of dissolution until the re-letting of the property that the landlord is deprived of his rent and the benefit of the lessee's covenants to repair, etc. We shall be glad to have your views as to whether (A) the surety can be made liable for the rent after disclaimer of the lease and up to dissolution of the company; (B) after dissolution of the company, the company having disclaimed the lease: (C) in the event of no disclaimer, but a dissolution of the company only.

A. (A) The surety cannot be made liable for rent after disclaimer and up to dissolution. After disclaimer the principal debtor ceases to be liable, and the surety's liability therefore also ceases.

(B) After dissolution, following disclaimer, the surety's liability ceases, as laid down in the quoted case.

(C) After dissolution, without a previous disclaimer, the surety's liability also ceases. He is only a guarantor, and there was no undertaking by him to indemnify the lessor against disclaimer or dissolution.

Damage by Subsidence.

Q. 3608. We are acting for the purchaser of a house in the Forest of Dean. The title commences in 1867 with a conveyance from the Commissioners of H.M. Forests granting the land and reserving mines and minerals. There is no provision for damage caused by the working of the said mines and minerals, but the Dean Forest (Mines) Act, 1938, provides that a lessee of a mine must pay compensation for surface damage. It was decided in *Allaway* v. *Wagstaff* (1859), 4 H. & N. 681; 29 L.J. Ex. 51; 35 L.T. (o.s.) 273; 157 E.R. 1008, that defendant was liable to an action for causing a subsidence of the surface; but the damage so done to plaintiff's house was not "surface damage" within s. 68. It appears that the Statutes of Limitation have no operation against an owner of land who sells it reserving the mines and minerals. In such cases non-user is of itself no abandonment of possession, see *M'Donnell* v. *M'Kinty* (1847), 10 I.L.R. 511, and other cases quoted in "Halsbury," 2nd ed., vol. XX, p. 691. In these circumstances it would appear that our client is running a distinct risk if there are any minerals beneath the house, and we shall be glad to know if you consider he has any remedy or protection against damage to his house caused by mine workings.

A. The decision in *Allaway* v. *Wagstaff*, quoted in the question, appears to have turned on the question of the jurisdiction of the deputy gaveller. The discussion at pp. 688–689 of the report, however, indicates the reason for holding that damage to a house was not surface damage. Nowadays a means would probably be found of distinguishing the above decision, which appears to go rather far. Nevertheless the risk run by the questioners' client is one which remains, as the law stands, and no remedy appears to be available, short of litigating the above question over again.

Finance Act, 1936, s. 21.

Q. 3609. A client of ours wishes to purchase some property and to have it conveyed to his infant son. It will, of course, have to be conveyed to trustees on behalf of the infant. Will such a transaction come within the definition of a settlement under s. 21 of the Finance Act, 1936, with the result that the property will be deemed the father's income during the infant's minority?

A. The section is undoubtedly intended to catch such a provision for an infant child as mentioned in the question as "settlement" includes any "disposition" or "transfer of assets." Unless there is some flaw in the Act which we have not discovered the income will be treated as that of the father during the minority and bachelorhood of the son.

Reversionary Lease.

Q. 3610. A leases premises to B, the lease terminating on 29th September, 1938. B sub-leases to C for a term of fourteen years terminating on the 25th December, 1937. In 1930 C assigns the residue of his term to D. After the 25th December, 1937, D continues to hold the premises and pays the same rent as previously to B. In May, 1938, D entered into a reversionary lease with A for a term of twenty-one years commencing on the 29th September, 1938. My client, D, has now been served with a dilapidations notice by B and the schedule of dilapidations is taken from the schedule served upon B by A. The sub-lease from B to C contains the usual covenant by C to keep and yield up in good and tenantable repair. D now wishes to know whether he can be compelled to execute the repairs, etc., set out in the schedule of dilapidations in view of the fact that he has already entered into a reversionary lease with the superior landlord, and this reversionary lease contains a similar covenant to keep and yield up the premises in good and tenantable repair. There is authority for the proposition that where the landlord grants a reversionary lease to a *third party* the damages recoverable under s. 18 of the Landlord and Tenant Act, 1927, must be calculated without looking at the terms of the reversionary lease (see *Joyney* v. *Weeks* [1891] 2 Q.B.; *Terroni* v. *Corsini* [1931] 1 Ch., and *Westminster* v. *Duncombe*, Sol. J., vol. 82, p. 235). The writer can find no authority however, for the case where the reversionary lease is granted to the present tenant.

A. A distinction appears to arise between the quoted cases and the present facts, by reason of the grant of the reversionary lease to the sitting tenant. Any claim against him must be regarded as having been taken into account in assessing the rent under the new lease. The latter can be regarded as having been granted in accord and satisfaction of any outstanding claim under the existing lease. The result is that D cannot be compelled to execute the repairs under B's dilapidations notice.

Loss of Deposit.

Q. 3611. The offer of an intended purchaser of freehold property introduced to the vendor by the latter's estate agent, is accepted and a sum is paid to the agent by way of deposit who gives a receipt in which it is stated he holds the money as stakeholder. Subsequently, the purchaser pays a further sum to the agent which, added to the previous payment, makes over 10 per cent. of the purchase price and obtains a receipt "balance of deposit." Subsequently, a further sum is paid to the agent, making a total sum paid of £110. The vendor has not expressly authorised the agent to receive any money nor has he requested the purchaser to pay any to the agent. In due course contracts are exchanged in which it is stated "the deposit of £110 has been paid to (the agent) as stakeholder." Through the misconduct of the agent before completion of the purchase the money is irrecoverable. The purchaser has threatened an action for specific performance of the contract. Must the vendor complete and bear the loss of the £110, the vendor being estopped by the contract from denying the regularity of the payment to the agent?

A. The exchange of contracts was subsequent to the payments and the latter were accordingly ratified by the vendor. He is accordingly estopped from alleging any irregularity by the purchaser, in making the payments. The purchaser is, therefore, entitled to an order for specific performance and the vendor must complete and bear the loss of the £110.

"COAL ACT, 1938."

In reference to *Q.* 3601 and the answer thereto, at p. 836 of last week's issue, it should be noted that, by s. 3 (2) of the Act, the valuation date is the 1st January, 1939, and the vesting date is the 1st July, 1942. The period between is defined, by s. 44 (1), as the "interim period." Although the Act was passed on the 29th July, 1938, its operation is therefore delayed to the above extent."

Notes of Cases.

Court of Appeal.

Thompson *v.* Thompson.

Greene, M.R., Scott and Clauson, L.JJ.
13th October, 1938.

Divorce — Husband's Adultery — Certificates of Intervener's Virginity—Defence Withdrawn—Decree *Nisi*—Intervention by King's Proctor—Decree Maintained—King's Proctor to Pay Proportion of Costs.

Appeal from a decision of Langton, J. (82 Sol. J. 417).

In a wife's suit for divorce alleging adultery, the husband and the woman named, who intervened, filed answers denying the charges. Pending the hearing the petitioner was supplied with copies of certificates of gynæcologists to the effect that the intervener was *virgo intacta*. The intervener subsequently refused to submit to examination by a gynæcologist nominated on behalf of the petitioner. Before the hearing there was an intimation that the suit would be no longer contested. In July, 1937, Langton, J., granted a decree *nisi*, but directed that the papers be sent to the King's Proctor for inquiry into the facts surrounding the intervener's alleged visits to the doctors. The King's Proctor having satisfied himself that the certificates were in order and that there was no impersonation of the intervener, filed a plea alleging that the decree *nisi* should not have been obtained. The plea was filed under the direction of the Attorney-General. Langton, J., found in favour of the King's Proctor that the intervener was the woman who had presented herself for examination, but he further found that adultery had been committed. He accordingly held that, though the King's Proctor's intervention was abundantly justified by his success on the first issue, the decree *nisi* must stand. He, however, ordered the King's Proctor to pay three-quarters of the petitioner's costs of the intervention. He said that none of the difficulties which had arisen was due to any fault on the part of the petitioner or her advisers. The King's Proctor appealed with regard to the order as to costs.

Greene, M.R., dismissing the appeal, said that it had been argued that the King's Proctor's action originated in the judge's request, and that that should be enough to absolve him from liability to pay costs. But it could not be said that the Attorney-General, in instructing the King's Proctor to file his plea that the decree *nisi* should not have been obtained, was doing anything else than exercising his discretion. That plea was not put in as the result of any order of the court. In the result the decree *nisi* stood, the King's Proctor having failed to establish that adultery in law had not been committed. The judge had not acted under s. 181 (1) of the Judicature (Consolidation) Act, 1925. The relevant section under which the King's Proctor had acted was s. 183 (2). There was no ground for interfering with the judge's exercise of his discretion in ordering the King's Proctor to pay part of the petitioner's costs. *Sloggett* v. *Sloggett* [1928] P. 148 was a totally different case.

Scott and Clauson, L.JJ., agreed.

Counsel: *The Solicitor-General* (Sir Terence O'Connor, K.C.) and *H. Barnard*; *Doughty*, K.C., and *R. B. James*.

Solicitors: *The King's Proctor*; *Withers & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Nokes *v.* Doncaster Amalgamated Collieries, Ltd.

Lord Hewart, C.J., Charles and Macnaghten, JJ.
13th October, 1938.

Master and Servant—Coal Miner—Contract of Service with Company—Transfer of Assets and Liabilities of Company to another Company by Order of Court during Currency of Contract—Coal Miner Unaware of Transfer—Whether under Contract of Service

TO TRANSFEREE COMPANY—COMPANIES ACT, 1929 (19 & 20 Geo. 5, c. 23), s. 154.

Appeal by way of case stated from a decision of Lower Strafforth and Tickhill (Yorkshire) justices.

The appellant, Nokes, was convicted of having wrongfully absented himself from the service of the respondents, Doncaster Amalgamated Collieries, Ltd., at the Hickleton Colliery on 7th October, 1937, within s. 4 of the Employers and Workmen Act, 1875. The facts relating to his conviction were as follows: In January, 1937, Nokes entered into a written contract of service with the Hickleton Main Colliery Company, Ltd., to serve them as a coal miner at a colliery. Nokes worked at the colliery until 7th October, 1937. On 4th June, 1937, an order was made by the Chancery Court under s. 154 of the Companies Act, 1929, transferring to the respondents, Doncaster Amalgamated Collieries, Ltd., the property, rights and liabilities of the Hickleton Main Colliery Company, Ltd., and dissolving that company under the Act. The terms of the order never came to the notice of Nokes, who consequently, until 7th October, believed himself to be working for the Hickleton Main Colliery Company, Ltd. On that date Nokes, on the occasion of a strike, absented himself without cause from his work at the Hickleton Main Colliery, the respondent company consequently suffering a loss of not less than 15s. The justices held that, as from 4th June, 1937, a contract of service existed between Nokes and the respondent company by virtue of the order of the Chancery Division of that date, and that there had been a breach of that contract, and they ordered Nokes to pay the respondents 15s. damages for breach of contract and 10s. costs. By s. 154 of the Companies Act, 1929, where an application is made to the court to sanction a compromise or arrangement proposed by a company and involving a scheme for the amalgamation of two or more companies, the court may make an order transferring to the transferee company the whole or any part of the undertaking and of the property or liabilities of the transferor company. By s. 154 (4) "property" includes "property, rights and powers of every description," and "liabilities" includes duties.

LORD HEWART, C.J., said that it had been argued on behalf of the respondent company that the effect of the order of the Chancery Court was automatically and immediately to give statutory force to what would otherwise have needed a novation of the contract between Nokes and the Hickleton Main Colliery Company. The question to be decided turned on the scope to be given to the crucial words in s. 154 (4) of the Act of 1929: "Property, rights, and powers of every description." Section 154 contained provisions for facilitating, not for restraining or bewildering, the reconstruction and amalgamation of companies. It was argued for Nokes that the words of the section were not aptly devised to include contracts of personal service, and therefore that his contract existed, not with the respondent company, but only with the Hickleton Main Colliery Company. The order of the Chancery Court, it was said, could not have the effect of making him serve two employers or take a new employer in substitution for an old one without his consent. The Railways Act, 1921, the London Passenger Transport Act, 1933, and the Local Government Act, 1929, were Acts which specifically dealt with the position of employees who were being transferred from the employment of one employer to another. In such Acts it was natural that there should be found specific and clear provisions with regard to the position of those individuals. Wholly different considerations, however, applied to an Act of Parliament the purpose of which was to enable without undue delay the transfer of "property, rights, and powers of every description," and also of liabilities, including duties, from one limited company or a series of limited companies to another company. For that purpose the words employed in s. 154 of the Companies Act, 1929, were wide enough to include rights connected with or arising out of contractual rights as to servants. In one sense, no doubt, it was true that such a contractual right was personal because it had to do with persons and personal services, but, looked at from another point of view, rights of that kind might be regarded as being in the nature of property. For the present purpose it was quite artificial to draw a distinction between a contract for personal service and contracts of other kinds. The appeal must be dismissed.

CHARLES and MACNAGHTEN, JJ., agreed.

COUNSEL: *H. I. P. Hallett*, K.C., and *G. W. Wrangham*, for the appellant: *Sir Walter Monckton*, K.C., and *H. B. H. Hylton-Foster*, for the respondents.

SOLICITORS: *Hosking & Berkeley*, for *J. W. Fenoughty, Dunn & Co.*, Rotherham; *Bird & Bird*, for *Gichard & Co.*, Rotherham.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Melhuish *v.* Morris.

Lord Hewart, C.J., Charles and Macnaghten, JJ.
14th October, 1938.

ROAD TRAFFIC—LIGHT GOODS VAN—CHARGE OF EXCEEDING SCHEDULED SPEED—SOLE EVIDENCE FIGURES SHOWN BY SPEEDOMETER OF POLICE CAR—NO EVIDENCE OF OFFICERS' OPINION—CONVICTION—VALIDITY.

Appeal by case stated from a decision of Denbigh justices.

An information was preferred by the respondent, a police constable, against the appellant, Melhuish, charging him with having unlawfully driven a motor goods vehicle on a public highway at a speed in excess of the 30 m.p.h. specified for such a vehicle in the First Schedule to the Road Traffic Act, 1930, contrary to that Act as amended by the Act of 1934. The following facts were proved or admitted at the hearing: The respondent was on motor patrol duty as an observer in a police car driven by Police-constable Lloyd Hughes. The respondent saw a light motor van proceeding in front of the police car, and in the same direction. The police car followed the van, and before the van was signalled to stop the speedometer on the police car was seen by the two officers to register the speeds of 38, 40, 42 and 44 m.p.h. Having stopped the van, the respondent asked the appellant, who was driving it, whether he knew at what speed he had been travelling, to which the appellant replied that he did not, as he had not been looking. Told that the respondent had paced his car and that his speed had been 38, 40, 42 and 44 m.p.h., the appellant made no reply. It was contended for the appellant that the respondent, relying on a mechanical device, namely, the speedometer on the police car, had failed to produce evidence that the accuracy of the device had been tested before or after the time of the alleged offence, and that he had therefore failed to prove the case against the appellant as there could be no certainty that the speedometer was working accurately at the time when the pacing was being carried out. It was contended for the respondent that the evidence of the respondent, corroborated by that of Hughes, the driver of the police car, sufficed to satisfy s. 2 (3) (3) of the Road Traffic Act, 1934, which provides: "A person prosecuted for driving a motor vehicle . . . at a speed exceeding a speed limit . . . shall not be liable to be convicted solely on the evidence of one witness to the effect that in the opinion of that witness the person prosecuted was driving the vehicle at a speed exceeding that limit." The justices held that the case was proved by the evidence of the respondent and Hughes, and they came to the conclusion that the evidence given by the two officers was evidence to the effect that, in the opinion of more than one witness, a speed limit had been exceeded.

LORD HEWART, C.J., said that, in his opinion, the officers by their evidence had shown nothing except the figures exhibited by the speedometer. Neither of them, as the case was stated, had offered the smallest hint of his own opinion,

or spoken of his experience. The case for the prosecution as put rested on the mere observation and recitation of the results exhibited by the speedometer. It was argued for the appellant that the speedometer might not in fact have been accurate, and that the mere fact that the speedometer had registered certain figures had been treated as conclusive. The officers' observations of the speedometer had not been reinforced by any opinion or reference to their experience. If the contest had been between rival opinions, very different considerations would have applied; but here it was solely between a mechanical device on the one hand and the evidence of the appellant on the other. The respondent's whole case was that the speedometer spoke for itself. There was no reference to any opinion. It was not sufficient to rest on the mere sight of the speedometer. The error consisted in leaving the evidence of the speedometer unsupported by any supplementary evidence of a different kind such as an opinion as to the speed. The appeal must be allowed.

CHARLES, J., agreed.

MACNAGHTEN, J., said that he read the justices' finding as being that, in the police officers' opinion, a speed limit had been exceeded. If that was what the justices had meant, the conditions of s. 2 (3) (3) of the Act of 1934 were satisfied. He (his lordship) found difficulty in seeing what else the justices could have meant in view of the contentions advanced before them. In his opinion, the appeal should be dismissed.

COUNSEL: *T. J. F. Hobley*, for the appellant. There was no appearance by or on behalf of the respondent.

SOLICITORS: *Jaques & Co.*, for *Cyril Jones, Son & Williams*, Wrexham.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Reardon Smith Line, Ltd. *v.* **East Asiatic Co. Ltd.**

Branson, J. 18th October, 1938.

SHIPPING—CHARTERPARTY—BERTHS IN PORT REQUISITIONED BY GOVERNMENT—DELAY TO CHARTERED SHIP—"OBSTRUCTION"—WHETHER CHARTERERS UNDER ABSOLUTE OBLIGATION TO PROVIDE BERTH.

Special case stated by an arbitrator.

Reardon Smith Line, Ltd., the appellant shipowners, chartered a motor-ship to the charterers to go to Dairen and load a cargo of soya beans for European ports. The charterparty provided, so far as material, by clause 7 that lay days at the port of loading were to be weather working days and to begin twenty-four hours after the steamer was dunnaged, matted and all hatches were ready for cargo, whether in berth or not, and of the captain having given written notice to that effect to charterers or their agents: by clause 11 that, if the cargo could not be loaded by reason of obstructions or stoppages beyond the charterers' control in the docks or other loading places, the time for loading or discharging, as the case might be, should not count during the continuance of those causes; and by clause 15 that, if the steamer should not have arrived at her loading berth at the port of loading (the charterers undertaking to provide an available berth as soon as required) or although arrived be not in every way fitted for cargo and/or ready for it on or before a specified time, the charterers should have the option of cancelling or maintaining the charter. The vessel, in due course, went to Dairen and arrived there on the 27th October, 1937. Notice of readiness was given at 11 a.m. on the 28th October. No loading berth was available until the 10th November. The vessel then went alongside and began to load, but on the 11th November she was sent away from the berth and not allowed to resume loading until the 15th November because the Government required the berth for landing troops and stores. The owners claimed demurrage for one day nineteen and three-quarter hours as time by which the total time allowed by the charter for loading had been exceeded. The reason for the vessel's delay was that a number of berths in the port which were normally available for merchant ships had been requisitioned by the Government for the landing of troops and stores. Neither the charterers nor anyone else could have obtained a berth for the vessel before the 10th November. The arbitrator having awarded in favour of the charterers, it was argued for the appellants that the words "whether in berth or not" in clause 7 of the charterparty were intended to lay the burden of obtaining a berth on the charterers: that the subsequent provision in clause 11 relieving them from liability in case of "obstructions" did not affect that absolute obligation: and that on the true construction of clause 11, the sentence in which the word "obstructions" occurred only applied to handling of cargo and not to the getting of the vessel herself into a berth.

BRANSON, J., said that, in his opinion, the word "obstructions" in this charterparty must have the same meaning as in *Leonis S.S. Co.* v. *Rank* (1908), 13 Com. Cas. 161 (C.A.), 295. It was argued that the words in clause 7, "whether in berth or not," threw an absolute obligation on the charterers to secure a berth but, in his opinion, those words only fixed the time when the lay days began to run, and were subject to the exceptions provided in clause 11. It was also argued that the words in clause 15 "charterers undertaking to provide an available berth," showed that there was an absolute obligation, but those words in that clause must be read in their own context, and only related to the right of the charterers to cancel: they did not impose a general obligation in all events to provide a berth.

The award must be upheld.

COUNSEL: *A. A. Mocatta*, for the appellants: *W. L. McNair*, for the respondents.

SOLICITORS: *Holman, Fenwick & Willan*: *Thomas Cooper & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that WILLIAM, VISCOUNT FINLAY, K.B.E., LORD JUSTICE LUXMOORE, and LORD JUSTICE GODDARD be sworn of his Majesty's most honourable Privy Council on their appointment as Lords Justices of Appeal; and that the honour of Knighthood be conferred upon the Hon. Mr. JUSTICE OLIVER, M.C., and the Hon. Mr. JUSTICE CROOM-JOHNSON on their appointment as Justices of the High Court of Justice, King's Bench Division.

Mr. H. A. FOX, LL.B., Deputy Town Clerk of Heywood, has been promoted to the post of Town Clerk, in succession to Mr. FRANK JOHNSTON, who was recently appointed Town Clerk of Middleton. Mr. Fox was admitted a solicitor in 1934.

Mr. W. R. PARKER, Assistant Solicitor to Haltemprice (East Yorks) Urban District Council, has been appointed Deputy Town Clerk of Heywood, in succession to Mr. Fox. Mr. Parker was admitted a solicitor in 1936.

Notes.

Mr. C. E. Newton, town clerk of Camberwell, is retiring to-day, 22nd October. Mr. Newton was admitted a solicitor in 1900.

There will be a meeting of the University of London Law Society, at University College, on Tuesday, 25th October, at 8 p.m., when the Right Hon. Sir Frank Boyd Merriman will deliver an address on "Recent changes in the Divorce Law."

At a meeting of Leeds University Court last Wednesday, it was announced that the honorary degree of Doctor of Laws was to be conferred on Lord Baldwin, the Duke of Devonshire (the new Chancellor), and Mr. W. S. Morrison, Minister of Agriculture. The conferment will take place on 17th January next.

Mr. Burgin, Minister of Transport, told the Liberal National Forum last Wednesday, that Germany had approached the Ministry for permission to use the British "Major Road Ahead" sign. That sign, he said, was by common consent the greatest individual safety contribution of any sign on the road.

Erected at a cost of £60,000, the new county hall for the Isle of Wight was opened on Wednesday by Lord Bayford, president of the County Council's Association. The new building stands on the site of the Swan Hotel, formerly a prominent coaching hostelry, which has been used as county offices since 1918.

The town clerks of the Shropshire boroughs of Shrewsbury, Oswestry, Much Wenlock, Bishop's Castle and Bridgnorth, and their wives, met at Shrewsbury recently, to express good wishes and congratulations to Mr. W. C. Tyrrell, aged eighty-three, town clerk of Ludlow, and to present him with an inscribed watch to mark his diamond wedding last August.

An ordinary meeting of the Medico-Legal Society will be held at Manson House, 26 Portland Place, W.1 (Tel.: Langham 2127), on Thursday, the 27th October, at 8.30 p.m., when a paper will be read by Sir Bernard Spilsbury, M.B., F.R.C.P., on: "The Medico-Legal Significance of Wounds." Members may introduce guests to the meeting on production of the member's private card. Light refreshments are provided at the conclusion of each meeting.

In the Divorce Court last week Mr. Justice Langton tried the first suit brought under the provisions of s. 8 of the Matrimonial Causes Act, 1937, which confers on the court power to grant a decree of dissolution of marriage to a petitioning spouse where reasonable grounds exist for presuming that the respondent has died. After hearing the evidence, his lordship granted the petitioner a decree *nisi*, stating that the case was one in which he could presume the death of the respondent.

Sir George Vernon, Chairman of the Droitwich County Bench, has resigned in protest against a decision of Worcestershire Quarter Sessions, says *The Times*. The Droitwich Bench sentenced a motorist to four months' imprisonment on a charge of dangerous driving involving a fatal accident. Quarter Sessions allowed an appeal with costs. Sir George Vernon said last week: "I felt it my duty to make a protest, as it was a very flagrant case. The only way to end this ghastly slaughter on the roads is for magistrates to be more severe. It is no good my trying to be severe at Droitwich if decisions are reversed at Worcester."

THE SOLICITORS' LAW STATIONERY SOCIETY, LIMITED.

INTERIM DIVIDEND.

An interim dividend of 4 per cent., less income tax, on account of the year 1938, was paid on the 18th October. This is at the same rate as last year.

Court Papers.

Supreme Court of Judicature.

MICHAELMAS SITTINGS, 1938.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. I.	GROUP II. MR. JUSTICE LUXMOORE. Witness Part I.	MR. JUSTICE FARWELL. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
Oct. 24	Jones	More	*Andrews	Ritchie
,, 25	Ritchie	Hicks Beach	*Jones	Blaker
,, 26	Blaker	Andrews	*Ritchie	More
,, 27	More	Jones	Blaker	Hicks Beach
,, 28	Hicks Beach	Ritchie	More	Andrews
,, 29	Andrews	Blaker	Hicks Beach	Jones
	GROUP II. MR. JUSTICE MORTON. Witness Part II.	MR. JUSTICE BENNETT. Witness Part I.	GROUP I. MR. JUSTICE CROSSMAN. Witness Part II.	MR. JUSTICE SIMONDS. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
Oct. 24	*Jones	*Blaker	More	Hicks Beach
,, 25	*Ritchie	*More	Hicks Beach	Andrews
,, 26	*Blaker	*Hicks Beach	Andrews	Jones
,, 27	*More	*Andrews	Jones	Ritchie
,, 28	*Hicks Beach	*Jones	Ritchie	Blaker
,, 29	Andrews	Ritchie	Blaker	More

*The Registrar will be in Chambers on these days, also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 27th October 1938.

	Div. Months.	Middle Price 19 Oct. 1938.	Flat Interest Yield.	‡ Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	107	3 14 9	3 9 6
Consols 2½%	JAJO	72	3 9 5	—
War Loan 3½% 1952 or after ...	JD	100½	3 9 8	3 9 1
Funding 4% Loan 1960-90	MN	109	3 13 5	3 8 3
Funding 3% Loan 1959-69	AO	96	3 2 6	3 4 2
Funding 2¾% Loan 1952-57	JD	94½	2 18 2	3 2 9
Funding 2½% Loan 1956-61	AO	87	2 17 6	3 6 10
Victory 4% Loan Av. life 21 years ...	MS	107½	3 14 5	3 9 10
Conversion 5% Loan 1944-64 ...	MN	110	4 10 11	2 16 6
Conversion 3½% Loan 1961 or after	AO	99½	3 10 4	—
Conversion 3% Loan 1948-53 ...	MS	99	3 0 7	3 1 10
Conversion 2½% Loan 1944-49 ...	AO	96½	2 11 10	2 18 2
National Defence Loan 3% 1954-58	JJ	97½	3 1 6	3 3 4
Local Loans 3% Stock 1912 or after	JAJO	85	3 10 7	—
Bank Stock	AO	329	3 12 11	—
Guaranteed 2½% Stock (Irish Land Act) 1933 or after	JJ	80½	3 8 4	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	88	3 8 2	—
India 4½% 1950-55	MN	109½xd	4 2 2	3 10 4
India 3½% 1931 or after	JAJO	92½	3 15 8	—
India 3% 1948 or after	JAJO	78	3 16 11	—
Sudan 4½% 1939-73 Av. life 27 years	FA	105½	4 5 4	4 3 1
Sudan 4% 1974 Red. in part after 1950	MN	105½xd	3 15 10	3 8 8
Tanganyika 4% Guaranteed 1951-71	FA	107½	3 14 5	3 4 9
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	104	4 6 6	3 1 8
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	91½	2 14 8	3 3 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	100½	3 19 7	3 19 2
Australia (Commonw'th) 3% 1955-58	AO	85½	3 10 2	4 1 5
*Canada 4% 1953-58	MS	107½	3 14 5	3 7 1
*Natal 3% 1929-49	JJ	99	3 0 7	3 2 6
New South Wales 3½% 1930-50 ...	JJ	94½	3 14 1	4 1 8
New Zealand 3% 1945	AO	91½	3 5 7	4 11 0
Nigeria 4% 1963	AO	106½	3 15 1	3 12 1
Queensland 3½% 1950-70	JJ	92½	3 15 8	3 18 4
*South Africa 3½% 1953-73	JD	100½	3 9 8	3 9 2
Victoria 3½% 1929-49	AO	93½	3 14 10	4 5 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after ...	JJ	84	3 11 5	—
Croydon 3% 1940-60	AO	94½	3 3 6	3 7 4
*Essex County 3½% 1952-72 ...	JD	101½	3 9 0	3 7 3
Leeds 3% 1927 or after	JJ	83½	3 11 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase...	JAJO	99	3 10 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	70	3 11 5	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	83½	3 11 10	—
Manchester 3% 1941 or after ...	FA	84½	3 11 0	—
Metropolitan Consd. 2½% 1920-49 ...	MJSD	95½	2 12 4	2 19 8
Metropolitan Water Board 3% "A" 1963-2003	AO	86½	3 9 4	3 10 7
Do. do. 3% "B" 1934-2003 ...	MS	87½	3 8 7	3 9 9
Do. do. 3% "E" 1953-73 ...	JJ	96	3 2 6	3 3 10
*Middlesex County Council 4% 1952-72	MN	105½	3 15 10	3 10 0
* Do. do. 4½% 1950-70	MN	110	4 1 10	3 9 4
Nottingham 3% Irredeemable ...	MN	84	3 11 5	—
Sheffield Corp. 3½% 1968	JJ	100	3 10 0	3 10 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture ...	JJ	102½	3 18 1	—
Gt. Western Rly. 4½% Debenture ...	JJ	109½	4 2 2	—
Gt. Western Rly. 5% Debenture ...	JJ	121½	4 2 4	—
Gt. Western Rly. 5% Rent Charge ...	FA	118½	4 4 5	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	111½	4 9 8	—
Gt. Western Rly. 5% Preference ...	MA	91	5 9 11	—
Southern Rly. 4% Debenture ...	JJ	103	3 17 8	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	104½	3 16 7	3 14 3
Southern Rly. 5% Guaranteed ...	MA	112½	4 8 11	—
Southern Rly. 5% Preference ...	MA	94½	5 5 10	—

* Not available to Trustees over par.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.